

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x Civil Action No.: CV-05-740 (DLI)(MDG)
UNITED STATES OF AMERICA, §
§
Plaintiff, §
- against- §
§
MIRIAM O. MOLINA, §
§
Defendant. §
-----x

IN CLERK'S
U.S. DISTRICT COURT
★ SEP 23 2005 ★
P.M.
CLERK

DEFAULT JUDGMENT

Because Miriam O. Molina failed to appear to defend this action after having been served with process, it is ordered that a default be entered.

It is adjudged that the United States of America recover from Miriam O. Molina:

Claim No. C-106260W

Principal Balance:	\$1,886.61
Total Interest Accrued at 8.000%	\$1,180.74
Subtotal:	<u>\$3,067.35</u>

Claim No. C-106258W

<u>Principal Balance:</u>	<u>\$1,899.04</u>
<u>Total Interest Accrued at 9.130%:</u>	<u>\$1,380.61</u>
<u>Filing and Service of Process:</u>	<u>\$280.00</u>
<u>Subtotal:</u>	<u>\$3,559.65</u>
<u>Attorney's Fees:</u>	<u>\$ 1575.00</u>
<u>Total Owed:</u>	<u>\$ 8202.00</u>

Post-judgment interest shall be calculated, pursuant to 28 U.S.C. §1961.

Signed: Brooklyn, New York

September 21, 2005

Dora L. Irizarry
United States District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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**MOTION FOR DEFAULT AND FINAL JUDGMENT
AND FOR APPROVAL OF LEGAL FEES**

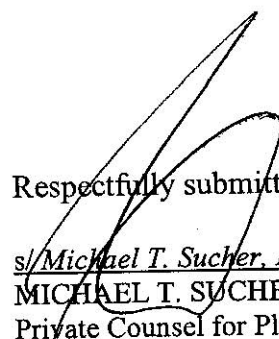
The Honorable Dora L. Irizarry:

United States of America ("USA") moves for final judgment against Miriam O. Molina ("Molina") because Molina has not answered, although duly summoned in the manner and for the length of time prescribed by law, and would further show that service was made on Molina, and to USA's knowledge Molina was not at the time of service in the military or naval service of the United States of America.

USA respectfully requests a final judgment in the amount set forth in the attached proposed judgment.

Dated: Brooklyn, New York
June 7, 2005

Respectfully submitted,

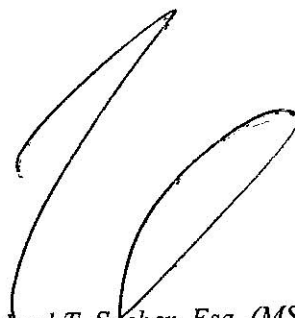

s/ Michael T. Sucher, Esq. (MS-9414)
MICHAEL T. SUCHER, ESQ.
Private Counsel for Plaintiff
United States of America
26 Court Street Suite 2412
Brooklyn, New York 11242
Tel. (718) 522-1995
Fax. (718) 797-3174

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Default Judgment and supporting papers was mailed on June 7, 2005 to:

Miriam O. Molina
Defendant In Person
413 S. 5th Street -Apt 4
Brooklyn, NY 11211

Affirmed: Brooklyn, New York
June 7, 2005

A handwritten signature in black ink, appearing to read 'Michael T. Sucher', written over a horizontal line.

s/ Michael T. Sucher, Esq. (MS-9414)
MICHAEL T. SUCHER, ESQ.
Private Counsel for Plaintiff
United States of America
26 Court Street Suite 2412
Brooklyn, New York 11242
Tel. (718) 522-1995
Fax. (718) 797-3174

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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Plaintiff,	§	
- against-	§	
	§	
MIRIAM O. MOLINA,	§	
	§	
Defendant.	§	
-----	x	

AFFIRMATION OF AMOUNT DUE

MICHAEL T. SUCHER, ESQ., an attorney duly licensed to practice in the Courts of the State of New York and in this honorable Court, affirms the following to be true under penalties of perjury:

1. I am the attorney for the United States of America in the above-entitled and numbered action.
2. The records of the Clerk of this Court show that the Summons and Complaint in this cause were duly served on Miriam O. Molina ("Molina") on April 07, 2005.
3. More than 20 days have passed since such service and Molina has failed to appear, plead or otherwise defend.
4. Molina is not an infant or incompetent person and is not in the military service within the purview of the Servicemen's Civil Relief Act of 2003, as amended.
5. Reasonable Attorney's fees are specifically authorized for collection on the promissory note sued upon.
6. The sum of \$1,325.40 is hereby requested as attorney's fees—same being 20% of the total amount due as of this date.
7. It is respectfully submitted that 20% of the amount sought for collection is a reasonable amount of attorney's fees to award, and is in line with the percentage amount awarded as reasonable Attorneys' fees by federal courts. See, e.g., Yurman Designs, Inc. v. PAJ,

Inc., 29 Fed. Appx. 46 (2nd Circuit, 2002); Wombles Charteres, Inc. v. Orix Credit Alliance, Inc., 1999 U.S. Dist. LEXIS 16859 (S.D.N.Y., 1999); Peoples Westchester Sav. Bank v. Ganc, 715 F.Supp. 610 (S.D.N.Y., 1989) (“fees amounting to 20 percent or more of the amount recovered have been held to be reasonable [by the appellate courts]”).

8. Alternatively, if this Court will look only to the lodestar method of computation of attorney's fees, it is requested that this court fix attorney's fees in the sum of not less than \$1,575 based on our office's expenditure of not less than 4.5 hours in prosecuting this action through default, at this office's normal hourly rate of \$350 per hour. Our services on a typical collection case, resulting in a default, comprise the following services: *Upon receipt of a student loan collection file we review the same; skip trace; prepare and send correspondence to defendant; make numerous attempts at communication with the defendant; draft summons and complaint; file the same with court on paper and electronically; draft request for waiver of service and cover letter; transmit the same to defendant and file with court electronically; supervise completion of service of process and file the same electronically; prepare, serve and electronically file motion for default judgment; and follow PACER for Notation of Default and Default Judgment.*
9. Accordingly, it is respectfully requested that this court exercise its discretion and award a reasonable amount of attorney's fees to Plaintiff, United States of America.
10. Costs in this action comprise this court's filing fee of \$250, sought by Plaintiff pursuant to 28 U.S.C. 2412, and Plaintiff's out-of-pocket expenses for service of the summons and complaint (\$30.00; bill annexed hereto).
11. The following information is provided from the USA's records for this claim:

Claim No. C-106258W:

Principal Balance:	\$1,899.04
Total Interest Accrued:	\$1,380.61

MICHAEL T. SUCHER

ATTORNEY AT LAW

August 23, 2005

Hon. Dora Lizette Irizarry
U.S. District Judge
225 Cadman Plaza East
Brooklyn, NY 11201

RECEIVED
in Chambers of:
U.S. District Judge
DORA L. IRIZARRY

AUG 25 2005

26 COURT STREET SUITE 2412
BROOKLYN, NEW YORK 11242

(718) 522-1995

FAX: (718) 797-3174

E-MAIL: NYLAWYER@AOL.COM

MEMBER OF THE BAR:
NEW YORK — FLORIDA

Re: United States of America
v. Miriam Molina
Docket No. CV-05-740 (DLI) (MDG)

Dear Judge Irizarry:

This office is private counsel to the Department of Justice, and attorney for Plaintiff in the above case.

On June 7, 2005 a Motion seeking Entry of Judgment on Default was filed electronically in the above case. A courtesy copy of the same is enclosed herewith.

Please be advised that no answer, or any communication whatever was received from defendant in this matter, and the court's docket reveals no filing by defendant responsive to plaintiff's motion for judgment therein.

Accordingly, it is respectfully requested that Plaintiff's motion for judgment in the amount requested, with interest through the date of final entry on the debts sued upon, be granted herein.

Thank you for your attention to this matter.

Very truly yours,

Michael T. Sucher

MTS/ms
Encl.

cc: Miriam Molina
Defendant In Person
413 S. 5th Street, Apt.4
Brooklyn, NY 11211

Filing and Service of Process:	\$280.00
Subtotal Owed:	<u>\$3,559.65</u>
Interest Rate:	9.130%

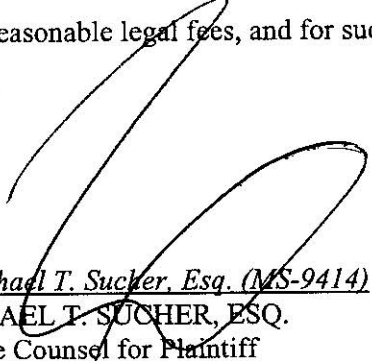
Claim No. C-106260W:

Principal Balance:	\$1,886.61
Total Interest Accrued:	\$1,180.74
Subtotal Owed:	<u>\$3,067.35</u>
Interest Rate:	8.000%

Grand Total of All Claims: \$6,627.00

WHEREFORE, it is respectfully requested that this Court enter judgment against the defendant in the sum of \$6,627.00 plus applicable interest, plus reasonable legal fees, and for such other and further relief as to this Court may seem just and proper.

Affirmed: Brooklyn, New York
June 7, 2005



s/ Michael T. Sucher, Esq. (MS-9414)
MICHAEL T. SUCHER, ESQ.
Private Counsel for Plaintiff
United States of America
26 Court Street Suite 2412
Brooklyn, New York 11242
Tel. (718) 522-1995
Fax. (718) 797-3174

Federated Process Services Inc.
32 Court Street
Brooklyn, NY 11201
(718) 875-1483

Michael Sucher
26 Court St 24 fl
Bklyn, NY 11242

Service Charges

Billing Date: 04/21/05
Atty: MS - Michael Sucher

INDEX

PLAINTIFF

DEFENDANT

DATE

SERVICE

114775 740/05 United States Of America

MIRIAM O. MOLINA

04/07/05

30.00

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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NONMILITARY AFFIDAVIT

MICHAEL T. SUCHER, ESQ., an attorney duly licensed to practice in the Courts of the State of New York and in this honorable Court, affirms the following to be true under penalties of perjury:

1. I am attorney of record for Plaintiff in the above-entitled and numbered case.
2. I investigated whether Defendant, Miriam O. Molina is in military service, by inquiry to the United States Department of Defense, Manpower Data Center, which organization maintains files setting forth the names of all individuals in the world who are in active military duty in all branches of the United States military service.
3. Based on my investigation and on the attached Department of Defense, Manpower Data Center report dated June 7, 2005, setting forth that no records were found for a Miriam O. Molina being in the United States military service as of that date, I am convinced that Defendant, Miriam O. Molina is not in the military service of the United States, or of the State of New York, at the present time, nor has said Defendant, Miriam O. Molina been ordered to report for induction under the Selective Training and Service Act of 1940, as amended. Defendant, Miriam O. Molina has not been ordered to report for military service as a member of the Enlisted Reserve Corps., and he was not receiving any training or education under the supervision of the United States

preliminary to induction.

Affirmed: Brooklyn, New York
June 7, 2005

A large, stylized handwritten signature in black ink, appearing to read 'MS' or similar, positioned above the printed name.

s/ Michael T. Sucher, Esq. (MS-9414)

MICHAEL T. SUCHER, ESQ.

Private Counsel for Plaintiff

United States of America

26 Court Street Suite 2412

Brooklyn, New York 11242

Tel. (718) 522-1995

Fax. (718) 797-3174

Department of Defense Manpower Data Center

JUN-07-2005 06:36:26

Military Status Report
Pursuant to the Servicemen's Civil Relief Act of 2003

◀Last Name	First	Middle	Begin Date	Active Duty Status	Service/Agency
MOLINA	MIRIAM				
Currently not on Active Military Duty, based on the Social Security Number and last name provided.					

Upon searching the information data banks of the Department of Defense Manpower Data Center, the above is the current status of the Defendant(s), per the Information provided, as to all branches of the Military.

Robert J. Brandewie, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

If you have information that makes you feel that the DMDC response is not correct, please fax your response to 703-696-4156 or call 703-696-6762 and further research will be done. For personal privacy reasons, SSNs are not available on this printed results page. Requesters submitting a SSN only receive verification that the SSN they submitted is a match or non-match.

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Defendant.	§	
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I, Robert C. Heinemann, Clerk of Court of the United States District Court for the Eastern District of New York, do hereby certify that the defendant has not filed an answer or otherwise moved with respect to the complaint herein. The default of defendant, Miriam O. Molina is hereby noted pursuant to rule 55(a) of the Federal Rules of Civil Procedure.

ROBERT C. HEINEMANN
Clerk of Court

By: _____
Deputy Clerk